



PUBLIC NOTICE

Federal Communications Commission
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AUG 29 9 54 AM '03

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DA 03-2756

Released: August 28, 2003

DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF CERTAIN AFFILIATES OF MJD SERVICES CORP. TO GOLDEN WEST TELEPHONE PROPERTIES, INC.

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-186

On July 28, 2003, MJD Services Corp. (MJD and Transferor) and Golden West Telecommunications Cooperative, Inc. (Golden West Coop.) and its wholly-owned subsidiary Golden West Telephone Properties, Inc. (Golden West Properties) (collectively, the Transferees) (together, Applicants) filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ to transfer control of Union Telephone Company of Hartford (Union), Armour Independent Telephone Co. (Armour), Bridgewater-Canistota Independent Telephone Co. (Bridgewater-Canistota) and Kadoka Telephone Co. (Kadoka) from MJD to Golden West Properties.²

Applicants assert that the proposed transaction is eligible for presumptive streamlined treatment because neither Golden West Coop., Golden West Properties, Union, Armour, Bridgewater-Canistota, Kadoka, nor any of their subsidiaries or affiliates is a facilities-based carrier with respect to domestic long distance toll service. Rather, they resell the domestic long distance toll services of unaffiliated, facilities-based interexchange carriers, and have a market share in the interstate, interexchange market of less than ten percent (10%), both before and after the proposed transaction. Applicants also argue that the transaction involves the transfer of

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed a transfer of control application related to international services. Applicants state that they intend to file for consent to transfer control of Conventional Industrial/Business Pool service station KNFV855 from MJD to Golden West Properties. Any action on this domestic section 214 application is without prejudice to Commission action on other related pending applications.

control of four very small independent local exchanges carriers to another small LEC and has no potential to harm the public interest or impair competition. However, *Applicants acknowledge that some of the incumbent LECs owned by the Transferor share common borders with incumbent LECs owned by the Transferee.* Because the Applicants have adjacent service areas, this application is not subject to streamlined treatment.³

MJD Services, Inc. currently owns 100 percent of the stock of Union and Kadoka. MJD and Union currently own 100 percent of the stock of Armour and Armour owns 100 percent of the stock of Bridgewater-Canistota. Accordingly, MJD currently controls Union, Armour, Bridgewater-Canistota and Kadoka. MJD is an intermediate holding company within the FairPoint Communications, Inc. (FairPoint) organization. It is responsible for oversight of ten (10) of FairPoint's local exchange subsidiaries.

Union is a rural LEC (LEC) that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in the Hartford and Wall Lake exchanges in South Dakota with approximately 1,889 access lines. Union owns 100 percent of the stock of Union TelNet, Inc. a South Dakota corporation and an internet provider in South Dakota with approximately 600 dial-up and 300 DSL subscribers.

Armour is a rural LEC that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in the Armour exchange in South Dakota with approximately 684 access lines. Bridgewater-Canistota is a rural LEC that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in the Bridgewater and Canistota exchanges in South Dakota with approximately 993 access lines. Kadoka is a rural LEC that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in the Kadoka exchange in South Dakota with approximately 577 lines.

FairPoint is a telecommunication holding company that owns and operates twenty-nine rural LECs in eighteen states. Its subsidiaries presently operate 142 local telephone exchanges serving approximately 243,408 access lines. FairPoint subsidiaries provide local exchange telephone services, enhanced calling features, long distance toll services, digital subscriber line services, Internet access, advanced data services and cable television services.

After closing, Golden West Coop. will be the ultimate controlling entity of the merged company. Golden West Coop. is a rural LEC that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in South Dakota, Nebraska, and Wyoming. Golden West Coop. serves 27 exchanges in South Dakota with approximately 16,338 access lines in South Dakota, 91 access lines in Nebraska and 29 access lines in Wyoming. Golden West Coop. serves a total of approximately 16,458 lines in its exchanges. Golden West Properties owns 100 percent of Vivian Telephone Company

³ See 47 C.F.R. § 63.03 (b)(2)(iii); *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, 17 FCC Rcd 5517 at 5534, para. 32 (2002).

(Vivian), a rural LEC that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in South Dakota and Nebraska. Vivian serves 19 exchanges primarily in the southeastern portion of South Dakota, with 19,830 access lines in South Dakota and 17 access lines in Nebraska.

Sioux Valley Telephone Company (Sioux Valley), a wholly owned subsidiary of Golden West Coop., is a rural LEC that provides wireline local exchange service, exchange access service, and interexchange service to residential and business customers in southeastern and south central part of South Dakota and in Minnesota. Sioux Valley serves approximately 5,850 access lines in South Dakota and approximately 43 access lines in Minnesota, for a total of approximately 5,893 access lines.

Applicants seek consent to transfer control of all the issued and outstanding stock of Union, Armour, Bridgewater-Canistota and Kadoka that are currently by MJD, a company headquartered in North Carolina, to Golden West Properties, a provider of local exchange and related telecommunications services located in South Dakota. Thus, Applicants contend, the transaction will enable Union, Armour, Bridgewater-Canistota and Kadoka and their customers to gain the benefit of local ownership, including the benefit of the experience and knowledge of Golden West Properties and Golden West Coop. regarding the provision of service to rural areas in South Dakota. Applicants state that Union, Armour, Bridgewater-Canistota and Kadoka will continue to be managed on a day-to-day basis by local employees. Applicants claim that the regulated local exchange and exchange access services, rates and practices of these companies will not change as a result of the proposed transaction. Applicants argue that the proposed transaction will not adversely impact effect competition because the entities involved are small carriers that do not possess a significant share of interstate, interexchange market either before or after closing of the proposed transaction.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days and reply comments within 21 days** of this notice.⁴ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or

⁴ See 47 C.F.R. § 63.03(a).

rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov;
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: dcjohnso@fcc.gov;
- (4) Jeremy Miller, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: jemiller@fcc.gov;
- (5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 6-A739, Washington, D.C. 20554; email: iellis@fcc.gov;
- (6) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: ckillion@fcc.gov.

Filings and comments are also available for public inspection and copying during regular

business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Dennis Johnson at (202) 418-0809.

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